

REMARKS

Assignee respectfully requests Continued Examination of Application 09/806,510, filed April 16, 2001.

The above-referenced patent application has been reviewed in light of the Office Action referenced above. Reconsideration of the above-referenced patent application in view of the following remarks is respectfully requested.

Claims 87-178 are pending in the application. Claims 87-92, 95, 96, 102-107, 110, 111, 117-122, 125, 126, 129, 130, 136-141, 144, 145, 148, 149, 155-158, 160, 161, 167-170, 172, and 173 have been amended. The amendment is fully supported by the original disclosure, such as by page 8, lines 3-5 and by page 12, line 20 to page 13, line 6 of the specification, for example. No new matter has been introduced. The above amendments were, in many instances, made to clarify Assignee's claims and do not narrow the scope of the amended claims. In light of this, Assignee asserts that no prosecution history estoppel should result from the above amendments.

Examiner Interview:

During the January 4, 2005 telephone interview with the Examiner, the Examiner indicated that clarification of the term "unchangeable" in claims 87-178 might place these claims in condition for allowance. Assignee submits that no such clarification is needed for patentability purposes under 35 U.S.C. §§ 112, 102, or 103. However claims 87, 89, 102, 104, 117, 119, 136, 138, 155, 157, and 167 have been amended to clarify the term "unchangeable". For example, claim 87 clarifies the term "unchangeable" by reciting that the "unchangeable key is capable of being operationally unchangeable at least during

said encrypting of said changeable key re-encrypted digital data". The amendment of claims 87, 89, 102, 104, 117, 119, 136, 138, 155, 157, and 167 were made only to clarify Assignee's claims and do not narrow the scope of the claims. In light of this, Assignee asserts that no prosecution history estoppel should result from the above amendments.

Claim Rejections:

Claims 87-178 were rejected under 35 U.S.C. §102(b) as being anticipated by Davis, U.S. Patent No. 5,825,879 (hereinafter "Davis"). These rejections are respectfully traversed.

It is noted that the Examiner can establish anticipation only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See MPEP § 2131.01. It is asserted that the Examiner has not established that Davis meets this requirement.

Assignee respectfully re-submits that Davis does not disclose all of the elements of claim 87. For example, Examiner has not established that Davis discloses "*encrypting said changeable key re-encrypted digital data using an unchangeable key to produce changeable-unchangeable keys double re-encrypted digital data.*" In the absence of the Examiner pointing to such a term in Davis, Assignee requests that the rejection be withdrawn as the Examiner has failed to establish that Davis discloses the identical invention as is required for anticipation. See MPEP § 2131.

Likewise, claims 88-154 distinguish from Davis on at least the same or similar basis as claim 87. Therefore, Assignee respectfully requests that Examiner's rejection of claims 88-154 be withdrawn.

Lastly, Assignee respectfully re-submits that Davis does not disclose all of the elements of claim 155. For example, Examiner has not established that Davis discloses *“encrypting said digital data, determined to be protected, using an unchangeable key to produce unchangeable key encrypted digital data”*. Therefore, Assignee respectfully requests that the Examiner’s rejection of claim 155 be withdrawn.

Likewise, claims 156-178 distinguish from Davis on at least the same or similar basis as claims 155. Therefore, Assignee respectfully requests that Examiner’s rejection of claims 156-178 be withdrawn.

It is noted that claimed subject matter may be patentably distinguished from the cited patent for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignee’s failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

CONCLUSION

In light of the foregoing, Assignee respectfully requests that prosecution on the merits be re-opened for Application 09/806,510. It is respectfully asserted that all of the claims pending in the current patent application as amended are in condition for allowance. Reconsideration of the current patent application and early allowance of all the claims is respectfully requested.

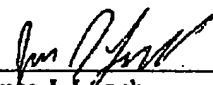
If the Examiner has any questions, he is invited to contact the undersigned at (503) 439-6500.

ADDITIONAL FEES

Any fees or extensions of time believed to be due in connection with this amendment are enclosed herein; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-3703.

Respectfully submitted,
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